



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

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MAY 17 2012

OFFICE OF THE
REGIONAL ADMINISTRATOR

The Honorable Charisse Soucie
Acting Chairperson
Burns-Paiute Tribe
100 Pasigo Street
Burns, Oregon 97720

Dear Chairperson Soucie:

On November 22, 2011, the U.S. Environmental Protection Agency notified you about an upcoming EPA action regarding Idaho's human health criteria for toxic pollutants and provided you the opportunity to consult with the EPA on the action. This letter is to inform you of the EPA's recent action on Idaho's revised human health criteria and to thank you for your input during tribal consultation.

On May 10, 2012, the EPA sent a letter to Mr. Barry Burnell, the Idaho Department of Environmental Quality's (DEQ) Water Quality Programs Administrator, disapproving the human health criteria revised by Idaho and submitted to the EPA in July 2006. The EPA disapproved the revised human health criteria because the EPA's preliminary review of available local and regional data indicates that some population groups in Idaho may eat more fish than the Idaho and national average fish consumption rate of 17.5 grams per day (roughly two eight-ounce servings a month). The EPA believes consideration of available local and regional fish consumption data is necessary to ensure that the State's criteria protect public health in Idaho.

The EPA appreciates the input we received from tribes during tribal consultation on this action. We carefully considered what we heard from you and the other tribes, and thank you for taking the time to help inform us of your interests and concerns on this action.

In response to the EPA's disapproval action, the criteria must be revised such that they are consistent with the Clean Water Act. The EPA prefers that Idaho take this action under its regulatory development process. However, if the State does not make the necessary changes, the EPA will be required to propose and promulgate criteria protective of the human health uses of Idaho's waters. As it is important for your concerns to be addressed during this process, the EPA hopes that the tribes will choose to take an active role in this upcoming process, whether it is undertaken by Idaho or the EPA.

During our consultation and coordination meetings, several tribes provided input regarding the need for more current fish consumption data relative to tribal and/or recreational fishers in Idaho. In response, I have asked the Office of Water and Watersheds to work with Idaho and the tribes to explore the possibility of conducting a statistically sound fish consumption study that would help further characterize the consumption patterns of high fish consumers in Idaho.

The study would need to be based on sound science that can be used to develop water quality standards, and be a collaborative effort between the tribes and the State. We will be in contact with your staff in the near future to further discuss the potential study.

Thank you again for your interest in this matter and for taking the time to share your perspectives with the EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. McLerran", with a long horizontal flourish extending to the right.

Dennis J. McLerran
Regional Administrator

cc: Mr. Jason Fenton, Environmental Program Manager